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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,267

01/27/2004

Raymond Willis Blodgett JR.

18393-512

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11/22/2006

INSKEEP INTELLECTUAL PROPERTY GROUP, INC
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EXAMINER

PEDDER, DENNIS H

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,267	Applicant(s) BLODGETT, RAYMOND WILLIS	
	Examiner Dennis H. Pedder	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/8/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is seen to be not generic to claim 3 as no weld with the claimed longitudinal axis is apparently disclosed.

Response to Amendment

3. The affidavit filed on 7/27/2005 under 37 CFR 1.131 is insufficient, upon further consideration, to overcome the McManus et al. reference, 2002/0084664, to the currently amended claims.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the McManus et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

As stated in MPEP 715.02 (I), "applicant's affidavit must show possession of either the whole invention as claimed or something falling within the claim(s) prior to the effective date of the reference being antedated". In the present affidavit, no showing of any claimed connecting

Art Unit: 3612

area, connecting area having a longitudinal axis, linking portion parallel to a longitudinal axis of each of the rails, junction with longitudinal axis parallel...rails, junction positioned parallel...rails, and rails... fixed along a vertical direction are present as applicant merely shows a cross-section of a double tube. It is not even clear that the affidavit tube is comprised of a first and second rail, or two members joined.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Nye et al.

Nye et al. have first frame 10, second frame movable with respect thereto and comprised of first rail 72/74 and second rail 76 welded to each other at a juncture or connection portion 72. The axis of 72 is longitudinal and parallel as claimed. Load is distributed across a top surface of the first rail and then to the top surface of the second rail.

As to remaining claims, the rail 76, being located within the rail 72/74, is not deemed to be at substantially the same height, hence the Nye et al. reference is not anticipatory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3612

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 11, 12 13-14, 19-22, 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by McManus et al., US 2002/0084664 (664).

McManus et al. has all claimed details including first and second frame members 32, first and second support rails 284,286, connecting member with area 288, all with longitudinal axes parallel. The rails are at the same height, with floor structure 24.

As to claim 13, see gear rack 290.

As to claims 12, 29 the member 288 is considered to be a rail.

As to claim 19, member 288 is a linking portion, spacing the rails, claim 20.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-10, 12, 15-17, 23-25, 29, 30-34, 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus et al. (664) in view of Nye et al.

As to claim 3, Nye et al. teach welding of joined support rails.

As to claims 4-10, 15-17, 23-25, 30-34, 36-38, McManus et al. have channel members.

Nye et al. teach that support members for a slide-out may have joined tubular members.

This produces a stronger rail with the engineering penalty of increased weight, an

Art Unit: 3612

engineering trade-off. The support members of Nye et al. are rectangular, closed cross-section and tubular.

It would have been obvious to one of ordinary skill to provide in McManus et al. welded support members of closed rectangular tubular configuration as taught by Nye et al. in order to strengthen the assembly.

7. Claims 18, 26, 35, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus et al. (664) in view of DeWald, Jr. et al.

It would have been obvious to one of ordinary skill to provide in McManus et al. a flush floor arrangement as taught by DeWald, Jr. et al. in order to avoid tripping at floor junctions.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rasmussen, US 6,338,523, Tiedge, and Schneider, 5,833,296 are further cited to show tubular slide-out support rails.

Response to Arguments

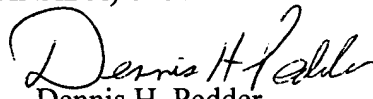
9. Applicant's arguments with respect to claims of record have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Dennis H. Pedder
Primary Examiner
Art Unit 3612

11/20/06

DHP
11/20/2006